

EXHIBIT 4

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

: Civil Action No.
STEVES AND SONS, INC., : 3:16cv545
: January 29, 2018
vs. :
JELD-WEN, INC. :
:-----

COMPLETE TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE ROBERT E. PAYNE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

Lewis F. Powell, III, Esquire
John S. Martin, Esquire
Maya M. Eckstein, Esquire
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219

Glenn Pomerantz, Esquire
Ted Dane, Esquire
Munger Tolles & Olson, LLP
355 South Grand Avenue
35th Floor
Los Angeles, California 90071

VOLUME II

1 APPEARANCES: (cont'g)

2 Kyle Mach, Esquire
3 Munger Tolles & Olson, LLP
4 560 Mission Street
5 27th Floor
6 San Francisco, California 94105
7 Counsel for the plaintiff

8 Margaret M. Zwisler, Esquire
9 Allyson M. Maltas, Esquire
10 Latham & Watkins, LLP
11 555 11th Street NW
12 Suite 1000
13 Washington, D.C. 20004

14 Alfred C. Pfeiffer, Esquire
15 Latham & Watkins, LLP
16 505 Montgomery Street
17 Suite 2000
18 San Francisco, California 94111

19 Lawrence E. Buterman, Esquire
20 Latham & Watkins, LLP
21 885 Third Avenue
22 25th Floor
23 New York, New York 10022

24 Michael W. Smith, Esquire
25 Craig T. Merritt, Esquire
Christian & Barton
909 East Main Street
Suite 1200
Richmond, Virginia 23219
Counsel for the defendant

11:57:54AM 1 So whether the economy is good or whether the economy
11:57:57AM 2 is bad, these are still the two questions to keep your eye on:
11:58:02AM 3 Does Jeld-Wen's acquisition of CMI substantially lessen
11:58:07AM 4 competition, or does it tend to create a monopoly.

11:58:12AM 5 They also tell you that Steves has options for buying
11:58:17AM 6 door skins. They may tell you that Jeld-Wen itself is willing
11:58:20AM 7 to enter into a new supply agreement with Steves, and if
11:58:26AM 8 Jeld-Wen does say that to you during the course of this trial,
11:58:29AM 9 remember this document by Hachigian, and remember this one.

11:58:38AM 10 And Jeld-Wen may say to you that Masonite is still an
11:58:44AM 11 option for Steves even though Masonite has made these public
11:58:48AM 12 announcements that it's not going to sell. And if they say
11:58:52AM 13 that to you, I want you to remember the testimony that you're
11:58:56AM 14 going to hear from the CEO of Masonite, Fred Lynch.

11:59:02AM 15 We took his deposition, and that's another deposition
11:59:04AM 16 that's going to be played, and you're going to see his
11:59:07AM 17 testimony. And what Mr. Lynch is going to say under oath is
11:59:12AM 18 this: He's going to say under oath that we're not interested
11:59:17AM 19 in a long-term agreement with Steves. Under oath, that's his
11:59:22AM 20 position. We're still not interested in a long-term agreement
11:59:24AM 21 with Steves.

11:59:26AM 22 And then he's also going to say to you that if any
11:59:31AM 23 third-party were to ask us to sell them door skins, they
11:59:36AM 24 submitted a purchase order, we might fill it, we might not
11:59:40AM 25 depending on our capacity. Well, Edward and Sam are going to

11:59:45AM 1 tell you that they need a reliable source of door skins in
11:59:48AM 2 order to stay in business. They need someone who will sell
11:59:51AM 3 them door skins so that they can make doors and sell them to
11:59:55AM 4 Home Depot and the homebuilders. They need a reliable source.

12:00:01PM 5 And Jeld-Wen may tell you there's another option for
12:00:05PM 6 Sam and Edward to go get door skins. They're going to say, you
12:00:09PM 7 can go get door skins from companies that make door skins who
12:00:13PM 8 are outside the United States, and there are companies that are
12:00:15PM 9 outside the United States that make door skins. They're in
12:00:18PM 10 Turkey, and they're in Romania, and Edward and Sam have looked
12:00:23PM 11 into that option.

12:00:25PM 12 They had to look into that option because Jeld-Wen
12:00:28PM 13 said they were terminating the long-term supply agreement, and
12:00:31PM 14 they spent a lot of time looking at it. Ultimately, they
12:00:35PM 15 concluded the option was not viable, and here are a couple of
12:00:40PM 16 things that Edward and Sam learned. Remember I told you that
12:00:44PM 17 they make 477 different styles and sizes of door skins? And
12:00:49PM 18 the reason why they make so many is because that's what their
12:00:52PM 19 customers want.

12:00:53PM 20 Home Depot wants to offer homeowners a wide array of
12:00:57PM 21 doors so that they can choose what they want. Choice. It's a
12:01:01PM 22 case about choice. And the same thing with the homebuilders.
12:01:04PM 23 They have different styles of homes and different things that
12:01:07PM 24 different homeowners want, so they want a wide range of doors
12:01:11PM 25 to put in homes.

12:01:12PM 1 So Steves sells 477 different styles and sizes.
12:01:19PM 2 Well, after Edward and Sam traveled around the world a couple
12:01:23PM 3 times, they found out that if you looked at all of the door
12:01:27PM 4 skin suppliers that were outside the United States, they could
12:01:31PM 5 only make 20 different styles and sizes of door skins. Only 20
12:01:37PM 6 were available altogether, just 20. That's not a viable option
12:01:42PM 7 for Steves.

12:01:44PM 8 And there was another problem: Quality. Many of the
12:01:50PM 9 door skins that Edward and Sam tested that came from these
12:01:54PM 10 suppliers outside the United States, and you'll hear names like
12:01:57PM 11 Teverpan and Yildiz and Kastamonu, when they tested those door
12:02:03PM 12 skins, sometimes they were okay, and sometimes they failed.

12:02:06PM 13 You see, here in the United States, homeowners expect
12:02:10PM 14 high quality doors, and, therefore, you need high quality door
12:02:15PM 15 skins. And Steves needs to be able to provide high quality
12:02:21PM 16 doors all the time. Not some of the time, all of the time.

12:02:27PM 17 And Jeld-Wen may tell you that Steves has one more
12:02:30PM 18 option. They may say, Steves can just go build its own door
12:02:36PM 19 skin plant. Jeld-Wen has door skins plants, Masonite has door
12:02:40PM 20 skin plants, Steves can build its own door skin plant.

12:02:44PM 21 Well, Edward and Sam also looked at that option.
12:02:46PM 22 They did. They looked at it, and when they looked at that
12:02:49PM 23 option, they spent a lot of time, and then they figured out
12:02:54PM 24 what Jeld-Wen already knew, and you know that Jeld-Wen already
12:02:58PM 25 knew it because it's in their documents.

1 This is another document that came from inside
2 Jeld-Wen, and it has in the upper right-hand corner barriers to
3 entry, and what that refers to are things that would stop
4 anyone from building a door skin plant, barriers to entry, and
5 you see the very first bullet on the page. It's going to cost
6 over \$100 million to build a door skin plant, over
7 \$100 million.

8 Well, Steves doesn't have a hundred million dollars
9 to build a door skin plant, and so far no one has raised their
10 hand and said, we'll partner with you and we'll pay that
11 amount. That has not happened. Then you'll see six other
12 bullets listing six other barriers to entry; die
13 infrastructure, technically challenging equipment, steep
14 learning curve.

15 Those are all barriers to entry, and there's another
16 barrier to entry that's not on this page: Patents. Patents.
17 You see, Jeld-Wen and Masonite claim to own a lot of patents
18 relating to door skins, relating to the processes for
19 manufacturing door skins and for the designs of door skins, and
20 Steves can't use any process or design that's subject to a
21 valid patent of Jeld-Wen or Masonite unless Jeld-Wen or
22 Masonite give them permission to do so.

23 This is an email that Hachigian sent on July 8th,
24 2015, to Onex. Ross and Munk work for Onex. You see in the
25 subject line it says, "EGS letter to KH." EGS is Edward G.

12:04:46PM 1 Steves. KH is Kirk Hachigian. And you see, Edward sent a
12:04:49PM 2 letter to Kirk Hachigian in July of 2015. He was being
12:04:54PM 3 upfront. He said, hey, we're going to look into building our
12:04:57PM 4 own door skin plant. You said you're going to terminate the
12:05:00PM 5 supply agreement, we're going to look into that option.

12:05:03PM 6 And Hachigian writes to Onex, "We will protect our
12:05:08PM 7 IP, of course." IP. Intellectual property. That's what that
12:05:13PM 8 stands for. Patents are intellectual property. What Hachigian
12:05:17PM 9 is saying to Onex after Edward told him they're going to look
12:05:22PM 10 into building a door skin plant is, we're going to protect our
12:05:23PM 11 IP. We're going to protect our patents.

12:05:28PM 12 One more document about building a door skin plant.
12:05:35PM 13 Hachigian says in May of 2014 to Onex, "I'm seriously
12:05:40PM 14 considering terminating all the agreements." That's the supply
12:05:44PM 15 agreements with Steves and the other small door manufacturers.
12:05:46PM 16 So in five years, they all need to lay out \$100 million in
12:05:50PM 17 capital. That's how much it costs to build a door skin plant,
12:05:54PM 18 and Ross writes back, Onex writes back, "Assuming your logic
12:05:59PM 19 that none of the independents will ever build a skin plant from
12:06:04PM 20 scratch, we can talk through the logic of why I think that's a
12:06:07PM 21 good assumption." Remember this email when someone from
12:06:13PM 22 Jeld-Wen comes in and takes the stand and says that Steves can
12:06:16PM 23 build its own door skin plant.

12:06:21PM 24 One other thing you might hear from Jeld-Wen during
12:06:24PM 25 the course of this trial, they may point you to the second

1 sentence of the termination provision of the supply agreement,
2 and that provision says that Jeld-Wen may terminate this
3 agreement for any reason, or no reason at all, upon seven
4 years' written notice to Steves with no liability. Jeld-Wen
5 may say that's all they did.

6 In September of 2014, they sent a notice and gave
7 Steves seven years' notice. Jeld-Wen comes in here and says
8 that's all they did, look at the second sentence. What the
9 second sentence says is that if Jeld-Wen gives notice, Steves
10 can terminate immediately. Steves would be free, right now, to
11 go enter into a deal with someone else, but in order to enter
12 into a deal with someone else, there has to be someone else,
13 and Jeld-Wen has acquired CMI. And Masonite has said it's not
14 going to sell to the small door manufacturers.

15 Does Jeld-Wen's acquisition of CMI substantially
16 lessen competition, or does it tend to create a monopoly?

17 Now, when I sit down, Jeld-Wen's lawyers can have a
18 chance to come up here and talk to you, and she's going to tell
19 you what this case is about from Jeld-Wen's perspective, and
20 she may say some things that I have not addressed, and I don't
21 get a chance to come up and talk to you again until the very
22 end of the trial, and that's called closing argument.

23 So after she sits down, we start putting on our
24 witnesses, and you start looking at exhibits and hearing from
25 the witnesses. So I ask you to keep your mind open. I

12:08:08PM 1 promise, I commit to you that Mr. Powell and I will come back
12:08:12PM 2 to you at the end of this trial, and we will respond to
12:08:14PM 3 everything that they say during the trial.

12:08:20PM 4 If Steves fails, if Steves goes out of business
12:08:30PM 5 because someone figures out how to build --

12:08:34PM 6 MS. ZWISLER: Your Honor, may I approach?

12:08:36PM 7 MR. POMERANTZ: I'm sorry, I'll take that back.

12:08:36PM 8 MS. ZWISLER: May I approach, Your Honor?

12:08:36PM 9

12:08:36PM 10 (Discussion at sidebar as follows:)

12:08:45PM 11

12:08:45PM 12 MS. ZWISLER: He just said if Steves goes out of
12:08:48PM 13 business, and he was about to say --

12:08:50PM 14 THE COURT: You're going to retract that, aren't you?

12:08:52PM 15 MR. POMERANTZ: I will.

12:08:54PM 16 THE COURT: Okay.

12:08:54PM 17

12:08:54PM 18 (End of sidebar discussion.)

12:08:56PM 19

12:08:56PM 20 THE COURT: You are quicker than I was, Ms. Zwisler.

12:09:01PM 21 MR. POMERANTZ: I'm going to start that one over
12:09:03PM 22 again, and I retract what I just said.

12:09:05PM 23 THE COURT: Just disregard what he said about going
12:09:08PM 24 out of business.

12:09:09PM 25 MR. POMERANTZ: Please. If someone figures out how

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UNITED STATES DISTRICT JUDGE

APPEARANCES:

Lewis F. Powell, III, Esquire
John S. Martin, Esquire
Maya M. Eckstein, Esquire
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219

Glenn Pomerantz, Esquire
Ted Dane, Esquire
Munger Tolles & Olson, LLP
355 South Grand Avenue
35th Floor
Los Angeles, California 90071

VOLUME XII

1 APPEARANCES: (cont'g)

2 Kyle Mach, Esquire
3 Munger Tolles & Olson, LLP
4 560 Mission Street
5 27th Floor
6 San Francisco, California 94105
7 Counsel for the plaintiff

8 Margaret M. Zwisler, Esquire
9 Allyson M. Maltas, Esquire
10 Latham & Watkins, LLP
11 555 11th Street NW
12 Suite 1000
13 Washington, D.C. 20004

14 Alfred C. Pfeiffer, Esquire
15 Latham & Watkins, LLP
16 505 Montgomery Street
17 Suite 2000
18 San Francisco, California 94111

19 Lawrence E. Buterman, Esquire
20 Latham & Watkins, LLP
21 885 Third Avenue
22 25th Floor
23 New York, New York 10022

24 Michael W. Smith, Esquire
25 Craig T. Merritt, Esquire
Christian & Barton
909 East Main Street
Suite 1200
Richmond, Virginia 23219
Counsel for the defendant

11:51:59 1 And then you have to fill in the damages that were
11:52:01 2 sustained because of the reduction in competition, because
11:52:03 3 of the lack of choice. And the first one is -- and this
11:52:06 4 is antitrust injuries already sustained as a result of the
11:52:10 5 conduct. And this is Jeld-Wen's overcharging Steves for
11:52:13 6 door skins other than Madison/Monroe. So that's basically
11:52:17 7 the paragraph 6 price adjustment that they should have
11:52:20 8 gone down instead of saying that they could only go up.
11:52:24 9 That's \$8,630,567.

11:52:31 10 As to the second one, "Jeld-Wen's overcharging for
11:52:36 11 Madison/Monroe, \$1,303,035. For the defective door skins,
11:52:45 12 \$441,458. And for refusing to reimburse Steves for doors,
11:52:50 13 \$1,776,813.

11:52:54 14 And then as to Count One, we, the jury, find, by a
11:52:58 15 preponderance of the evidence, that the plaintiff is
11:52:58 16 entitled to damages in the amount of \$46,480,581 for
11:52:59 17 future lost profits. That's what we ask you here. We
11:53:07 18 think it's fully supported by the evidence. That's the
11:53:09 19 antitrust claim.

11:53:10 20 Then you're going to go to the contract claim. And
11:53:12 21 we would ask you to find yes as to each of the breaches
11:53:15 22 that we allege. The first one is Madison/Monroe -- I'm
11:53:20 23 sorry. The first one is the overcharges for Section 6
11:53:23 24 other than Madison and Monroe. There you say yes. And
11:53:26 25 it's the same, 8,630,567. And, again, we're asking for it

11:53:33 1 twice here not because we want a double recovery. The
11:53:36 2 judge will take care of that. We're asking that because
11:53:39 3 the same damage flows from the antitrust violation as from
11:53:41 4 the breach of contract. That's what we're asking you for.
11:53:44 5 It's the same damage. One is because we lost choice. We
11:53:47 6 lost competition. We would have gone someplace else.
11:53:51 7 That's the antitrust claim. And the contract is they just
11:53:54 8 breached it. They just said the prices could only go up
11:53:57 9 when the prices could go down.

11:53:58 10 The second one is Madison and Monroe, and that's for
11:54:05 11 1,303,035. That was also a breach. The third was for the
11:54:12 12 defective door skins where they didn't reimburse us,
11:54:15 13 441,458. Question 10 is talking about the cost of doors
11:54:20 14 that we got from customers and they wouldn't credit us.
11:54:23 15 That's yes, and it's 1.776,813. That's what we ask you to
11:54:28 16 do. We think it's fully supported by the evidence.

11:54:35 17 All right. About to wrap up. I've been spending the
11:54:39 18 last long bit of time, two hours, talking to you about
11:54:42 19 come competition and economics. And all of that is
11:54:47 20 necessary because we're dealing with an antitrust claim.
11:54:50 21 And it's based on economics and competition. But I'm
11:54:54 22 worried that you just see this as an economic story. And
11:54:58 23 it's not just an economic story. It's a human story.

11:55:04 24 Sam Steves has sat there every single minute of this
11:55:08 25 trial. He has sat there because this trial means the

11:55:12 1 world to him. And I know that Edward wished he could have
11:55:16 2 sat there every day as well because he wanted to. But the
11:55:21 3 rules of the court only allow us to have one of them sit
11:55:24 4 here, and that's why Edward wasn't here. Now, you
11:55:27 5 remember on day one, Mark Beck, the CEO of Jeld-Wen came,
11:55:32 6 he came, and they said, Here's Mark Beck. But you've
11:55:36 7 never seen Mark Beck here again. He never came back to
11:55:39 8 this courtroom to participate in this trial, to listen and
11:55:42 9 to see, and that's because to Jeld-Wen, this is just
11:55:47 10 business. But to Steves, it's personal.

11:55:53 11 This is about their family. This is about six
11:55:55 12 generations that preceded them and the generations to
11:55:57 13 come. I'm sure you probably all remember when Sam came
11:56:00 14 and took the stand a second time. It was when we had a
11:56:04 15 chance to ask Sam about Steves and Sons going out of
11:56:11 16 business in 2021 because it wouldn't have door skins. And
11:56:14 17 he got kind of excited. He responded from the heart. He
11:56:17 18 responded emotionally. In fact, so emotionally that I
11:56:20 19 think I recall Judge Payne saying, Settle down, big boy.

11:56:25 20 Well, you know, if it was possible for Sam and Edward
11:56:28 21 to go get the door skins from Teverpan, they'd do it in a
11:56:31 22 heartbeat. Or build a plant. They'd do it in a
11:56:35 23 heartbeat. But that's just not a likely option. So they
11:56:39 24 need your help. You see, they can't do any more than they
11:56:44 25 have done. They need you to send a message to Jeld-Wen.

11:56:49 1 That's your job. There is a right way and a wrong way for
11:56:54 2 companies to compete. A verdict in favor of Steves on the
11:56:59 3 antitrust claim and the contract claim will tell Jeld-Wen,
11:57:03 4 and other companies just like Jeld-Wen, that the people in
11:57:07 5 our community -- you, you represent the people in our
11:57:11 6 community -- we demand that you compete the right way. We
11:57:16 7 demand that. That's what the Clayton Act is for. We
11:57:19 8 demand that Jeld-Wen compete the right way. Your verdict
11:57:23 9 will send that message, and we encourage you to deliver
11:57:26 10 the right verdict in this case.

11:57:28 11 Thank you. Thank you so much for listening to me
11:57:31 12 today.

11:57:33 13 THE COURT: I think maybe you could stand a
11:57:35 14 break? We'll take 20 minutes.

11:57:43 15 Please be seated while the jury is being excused.
11:57:46 16 Twenty minutes.

11:57:47 17 (The jury exited the courtroom.)

11:58:07 18 THE COURT: Anything?

11:58:13 19 MS. SWISLER: If we're only taking a 20-minute
11:58:16 20 break, we're going to have to interrupt my closing. And I
11:58:19 21 think -- couldn't we take lunch now.

11:58:21 22 THE COURT: We don't have lunch. We don't have
11:58:24 23 lunch for the jury now, I don't think. Do we have it?

11:58:29 24 THE CLERK: I'll check, Judge.

11:58:30 25 THE COURT: I don't think we have lunch. If I

11:58:34 1 had lunch, I would consider it, but we don't. We didn't
11:58:37 2 plan for this way.

11:58:39 3 MS. SWISLER: So couldn't they be excused to go
11:58:41 4 out and have lunch?

11:58:42 5 THE COURT: We've already ordered their lunch.

11:58:45 6 MR. POWELL: Your Honor, the jury can have our
11:58:48 7 lunch, if that would be --

11:58:50 8 MS. SWISLER: We have lunch, too. They can have
11:58:52 9 that. I'd rather do that than have to stop. And I don't
11:58:55 10 think they'll pay attention to me if they don't eat. And
11:58:58 11 I may not get through it if I don't eat. So --

11:59:01 12 THE COURT: Okay. Give up your lunch. I
11:59:03 13 hope -- do you have anything as good as Padows?

11:59:11 14 MS. SWISLER: I think --

11:59:12 15 MR. POWELL: I'm not vouching for the quality,
11:59:13 16 Your Honor.

11:59:15 17 THE COURT: If you're selling it -- if you're
11:59:17 18 flogging it to the jury --

11:59:18 19 MR. POWELL: There's adequate quantity. I can
11:59:20 20 promise you that.

11:59:20 21 THE COURT: You do have enough to give them?

11:59:21 22 MS. SWISLER: Yes, we do.

11:59:22 23 THE COURT: Do each of you want to contribute so
11:59:24 24 that they'll be equal?

11:59:26 25 MR. POWELL: I think that's a good idea, Your